

**Air Pollution Control Advisory Council Meeting
November 9, 2000 – 2:03 p.m. –3:35 p.m.
Conference Room 111 of the Metcalf Building
Department of Environmental Quality**

Attendees

Council Members

Diane Lorenzen, Chemical Engineering
Mitchell Leu, Manufacturing
Kathy Harris, Urban Planning

Other Attendees

Steve Wright, Columbia Falls Aluminum Co.
Deb Wolfe, DEQ
Chuck Homer, DEQ
Bob Martin, DEQ
Bob Habeck, DEQ
Jeff Blend, DEQ

1. Call to Order – Establish a Quorum. Chairman **Diane Lorenzen** called the Air Pollution Control Advisory Meeting (APCAC) to order at 2:05 p.m. in Conference Room 111 of the Metcalf Building in Helena, Montana, a quorum was not present. Absent were Cliff Cox, Dennis Alexander, Dave Noell, Linda Dworak, Dean Johnson, Mike Machler, and Brad Black.

- a) **Review of 9/07/00 minutes:** Since there isn't a quorum, these minutes will be reviewed at the next meeting.
- b) **Unfinished Council Business:** None.
- c) **New Council Business:** None
- d) **Member Reports to Council:** Chairman Lorenzen will continue to check with nonattending members to ascertain their interest in continuing as members.

2. Housekeeping Remarks: Mr. Habeck passed out copies of the APCAC proposed meeting schedule for next year – the second Thursday every other month (Exhibit 1). Some of the dates may need to be changed once the Board of Environmental Review's meeting schedule is known.

3. Discussion Items:

a) Overview of State and Federal Air Toxics Program

Mr. Habeck said Linda Dworak has requested this be postponed until the next meeting, as she was unable to attend today and had input on the subject and also felt more members should be present for this discussion.

4. Rulemaking Action Items:

a) Columbia Falls Aluminum Company (CFAC) Request for Rulemaking. Steve Wright, CFAC.

Mr. Wright did an overhead presentation on maintenance and emission controls in the CFAC plant. A hardcopy of this presentation is Exhibit 2 of the minutes. Mr. Wright explained how an aluminum plant operates, as he said they are unique and different in many ways from other industries. Mr. Wright said they are requesting a rule that would enable them to maintain their emission control equipment without shutting down the entire plant.

The process used to get the aluminum is electrolytic and takes place in 600 reduction cells. The 600 reduction cells are hooked in series and are like having 600 separate individual smelters. Mr. Wright said it is very difficult to shut down the process - the last time it took ten days to shut down a potline and four to six months to start up and get everything stable and in operation. Shut-downs and start-ups also cause excess emissions.

Emissions are fluoride and hydrocarbons and they are controlled by a primary scrubbing system and collector ductwork. There is extra capacity in dry scrubbers on both sides of the plant so if you are working on one side you can close off the dry scrubber on that side and the fumes can be handled by the remaining half, and the fan towers have backup fans. However, there is no redundancy in the ductwork due to space restraints and cost. This is the main reason for the rule request. To repair the ductwork now requires the shutdown of the scrubbers and fans with fumes escaping. CFAC wants to have a planned maintenance program so you don't have a failure of the ductwork due to corrosion in the middle of some winter night. Then it would take a lot longer to get the repair people on the job and there would be excess emissions escaping. On a planned basis the equipment and repair people would be there and other workers safe.

Mr. Wright said their interpretation of the state air quality rule is that to fully comply and maintain their system means shutting down the plant, which is not feasible for small projects that take four to five hours. He said they could continue to follow a malfunction plan - do corrective work when a malfunction occurs and then declare that malfunction and go through the needed paper work.

CFAC has used the hearing process for planned maintenance but that is cumbersome and takes time. He said there should be a better way to do it.

Mr. Wright said for a typical planned maintenance project they would turn off the dry scrubber and fans for about half an hour, insert the balloon and bring the dry scrubber back up and the other fans. This process would control the emission of all the pots except the 20 on the line being repaired. Most maintenance projects would be done in two to four hours with the Y ductwork taking five hours. After the repair you need to shut down the scrubber again for about half an hour, remove the balloons and bring the scrubber up again.

In response to a question from Ms. Lorenzen, Mr. Wright said estimated emissions during a planned maintenance would be 2.8 tons of fluoride for twelve hours of scrubber outage. He said the last modeling indicated there would be a four-hour window in which the emissions would not be more than the PM10 standard for ambient air.

b) DEQ CFAC Rule Progress Report. Charles Homer, Air Waste Management Bureau, Technical Support Section.

Mr. Homer said one of the duties of his section is rule making. He said they were involved in the recent CFAC variance request. Mr. Homer said they were present today because part of CFAC's variance request contained a request that rule making be considered. So they asked that this topic be on the agenda and asked CFAC to be present and talk to the group. Mr. Homer said they would be talking to the Clean Air Act Advisory Council (CAAAC) in December on this topic. The CAAAC is made up of an informal group of representatives of regulated industries and environmental groups.

Mr. Homer explained that a variance is a request to the Board by a regulated facility that they be allowed to violate certain rules and it prohibits the department from taking any enforcement actions for these violations. A variance is just for state rules and so an industry could still be in violation of federal rules, or if the rule being violated is part of the state implementation plan (SIP) enforcement action can be taken. In the recent variance the most clearly understood rule violation would be the circumvention of control equipment. Mr. Homer said they were seeking input from the APCAC group as to whether to proceed or not to proceed with initiating a rule. He said they understand CFAC's problems - the variances have moved through the process slowly and there is a limited time period in which CFAC can do their planned maintenance upkeep, generally October and November. It has to be after the growing season but before winter inversions and meteorological conditions that could compound uncontrolled emissions.

Mr. Homer said they do have some concerns at the thought of having a rule that would permit uncontrolled emissions. Some of these rules are in the SIP and so will require a sign-off by the Environmental Protection Agency (EPA). CFAC provided them with examples from other states that have aluminum smelters, but many of these rules are general and could be applied to any kind of

facility. Therefore, the department hasn't concluded at this point which direction to go. Whether a rule if developed should be aluminum smelter specific. Mr. Homer said he could foresee other facilities claiming they could also benefit from a similar rule. He said the department is also concerned that with uncontrolled emissions there could be a violation of the ambient standards. Mr. Homer said when the modeling analysis was done to determine the impact of the CFAC variance, it was determined that several measures had to be included in the Board order to avoid potential violation of ambient standards. Time limits for maintenance projects, time of day, air conditions at the time, and the total time period allowed was put in the variance.

Mr. Homer said the department sees some different options. One would be to maintain the current practice of going through variances. Where a facility is seeking special dispensation to not follow the rules that other facilities are required to and there is a potential for violation of ambient standards, you could argue that a Board and a public review process would be appropriate. However, if we are going to recognize that this is an ongoing problem as Mr. Wright indicated, to avoid ongoing bureaucratic procedures the Board could possibly make a onetime determination and grant the department some ability to impose conditions that would allow it to occur without unreasonable harm to the environment and the public. If this happened, it would need to be determined if it were to be limited to just aluminum smelters. There is also the option where facilities could proceed and the department would use enforcement discretion. This is probably the worst option as it could be argued that it was intentional pollution and a criminal violation.

Mr. Homer said they were checking on rules in force in other states and how they are working. He said they are gathering information to present to CAAAC. He said at this point they wanted to know if APCAC members felt this was a rule making activity on which the department should spend time.

Ms. Lorenzen asked if the utility would still be liable for EPA penalties. Mr. Homer responded that there are no similar kinds of rule in Region 8, the similar ones noted were in Region 10 or other regions. He said he did not know the response EPA would give to their passing this rule. But since the rules are part of the SIP it would be advantageous to submit this as a SIP change so the facility that was following this rule wouldn't be subject to penalties from federal agencies. Also, it could be handled similarly to the way a variance now is or with situation language. In that way the department allows it but the facilities take their chances with EPA, as to whether they will wish to interfere.

Mr. Leu asked concerning a long term variance where an industry were to come in and file for a routine procedure and get a variance for say five years. Mr. Homer said he would need to check and see how long a variance can be under current statutes. He said personally he felt if the Board wanted to approve this on a long-term basis it would be the better way to go. However, the variance process was put in place so facilities that were having problems with new rules would have a period in which to adjust - kind of a free pass for a short period of time.

Ms. Lorenzen said the department should develop a bypass rule and it could include some showing that the bypass is environmentally preferable to waiting until malfunction and also show an analysis of the environmental impact when they bypass.

Mr. Homer said some ability to show economic impact should be included.

Ms. Harris said it seems appropriate for the department staff to look and see if a rule should be developed and to check on other options as well. She said she is a believer in reusing the work of other agencies as there is usually a reason a rule was developed, and if appropriate apply that rule to similar circumstances and not reinvent the wheel from the beginning.

Mr. Leu said he could foresee if the department deems it necessary to write a rule, to have something like a CAAAC subcommittee with interested people on both sides coming up with proper language.

Mr. Homer asked if they felt this should be strictly for aluminum smelters or looked at in the wider perspective.

The comment was made that other industries might also need this but must show a valid reason for bypassing and be able to show there would be no net effect on the environment and that it was cost effective.

Mr. Homer said he would report more on this subject at the next meeting

c) Title V Status. Charles Homer.

Mr. Homer said they had submitted a request to EPA for final approval of the Title V status. EPA is reviewing the request. The department at EPA's request has provided suggested responses on adverse comments received.

d) Repeal of Odor Rule – ARM 17.8.315. Bob Martin, Rural Development Specialist for the Air/Waste Management.

Mr. Martin said the Enforcement Division is the main group working on this rulemaking and the Planning and Analysis Division is assisting. He said they are proposing to repeal this rule for two reasons. One is that it is labor intensive to go out and prove a public nuisance in an odor situation. Secondly, odor enforcement is subjective – what smells bad to one person may not to another. After researching what other states are doing (half do not have an odor rule and EPA does not) and holding meetings to look at other options, it was decided the best option was to repeal the rule. Yellowstone, Cascade and Missoula counties have county air programs, which include odor rules, so in those counties if the state repeals their odor rule there will be no substantial change in odor enforcement. In counties without the county air program the citizens can address an odor problem with the nuisance or public nuisance statutes. This means the odor problem will be handled on the community level rather than the state level.

(e) Repeal of Copper Smelter Rule – ARM 17.8.323. Bob Martin.

Last year when Subchapter 3 of the air rule was printed there was a blank page associated with the copper smelter rule. The Secretary of State said there was a graph that went on this page. Mr. Martin said he had gone back fifteen years and found the graph and it was hand-drawn in 1972 and it had been reproduced so many times that the graph had lost resolution, and the emission standard equation said $y = 1x$. This is not an equation. It should say $y = 1x$. He said he had tried to reproduce it electronically so it could be inserted into the rules, but was told since the rule passed with the hand drawn graph, that is what needs to be there. He said they haven't resolved what to do about the graph. Mr. Martin said they started checking on what the rule did. It was written in 1972 and in 1976 a new source performance standard (NSPS) was written for primary copper smelting. It is more stringent than the 1972 rule and also there are no primary copper smelters in Montana at this time. So the department is proposing the repeal of the primary copper smelter rule.

Ms. Lorenzen asked if there was a risk of a copper smelter coming back and having its equipment grandfathered out of NSPS. Mr. Homer did not think that would be a problem.

5. Confirmed next meeting date for January 11.

Mr. Habeck said if the new schedule for the Board of Environmental Review (BER) is such that the date needs to be changed, he will notify the council. Mr. Habeck said APCAC meetings are scheduled well in advance of BER meetings so council member recommendations as well as staff input can be obtained. Meeting adjourned at 3:35 p.m.